# IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

## SPECIAL CIVIL APPLICATION No. 3221 of 2001

**For Approval and Signature:**

**HONOURABLE MR.JUSTICE AKIL KURESHI**

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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**SUPARAS RAJ BHANDARI - Petitioner(s)**

**Versus**

**VIJAYA BANK & 3 - Respondent(s)**

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**Appearance :**

MR BIREN VIASHNAV for MR KV GADHIA for Petitioner(s) : 1,
MR UDAY R BHATT for Respondent(s) : 1 - 4.

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**CORAM : HONOURABLE MR.JUSTICE AKIL KURESHI**

**Date : 02/03/2006**

**ORAL JUDGMENT**

1.In the present petition, the petitioner has challenged the action of the respondents in not permitting the petitioner to withdraw his option for voluntary retirement. The respondents i.e. the employer Bank and

its authorities had introduced a Voluntary Retirement Scheme vide circular dated 23-11-2000. In response to the said circular, the petitioner indicated his preference for being given voluntary retirement. Subsequently, however, the petitioner wrote letter dated 08-03-2001 indicating that his application for VRS be considered only if the Bank permits him to opt for pension as well. Ignoring this stand taken in the communication, respondents passed an order on 22-03-2001 reliving the petitioner on voluntary retirement basis as per his earlier exercise of option. At that stage, the petitioner approached this Court by filing the present petition and this Court by order dated 02-05-2001 stayed the impugned order by which the petitioner was sought to be relieved from service. Thus during the pendency of the petition, the petitioner has continued to discharge his duties. The petitioner had joined service of the Bank way back in the year 1971. Very few years if at all would now be available with the petitioner for active service. He had already put in nearly 36 years of service. Considering all these aspects of the matter and also considering that the petitioner was under the protection of this Court against his retirement from Bank service, if the

petitioner makes a representation to the respondents to permit him to continue in service till he crosses the age of superannuation, the respondents should examine such representation. Additionally, the learned advocate for the petitioner points out that similarly situated employee one Ms. Sudha M. Marla who had also filed a similar petition before this Court being Special Civil Application No.2888/2001, had withdrawn the same on 07-12-2005 and made a representation to the respondents for permitting her to continue in service. As per the information of the learned advocate for the petitioner, such a request was accepted by the Bank. It will be a factor for the Bank to consider if brought to notice by the petitioner with supporting material.

2. In view of the above observations, this petition is disposed of with a direction that if the petitioner makes a representation within a period of two weeks from today, same may be considered and disposed of in accordance with law preferably within a period of four months of its receipt. Until such time, Bank takes a decision on the representation that the petitioner may file, the petitioner shall not be relieved from service solely on the basis of impugned order.

3.In view of the above directions, the petition stands disposed of. Rule made absolute to the above limited extent with no order as to costs.

**(Akil Kureshi,J.)**

(raghu)